



ABAG PLAN CORPORATION

**Executive Committee
Special Meeting
March 11, 2008**

**101 - 8th Street
Oakland, CA 94607-4756
Conference Room C
&**

<u>Teleconference Locations</u>	<u>Contact</u>
455 East Calaveras Blvd, Milpitas, CA 95035	Emma Karlen
17555 Peak Avenue, Morgan Hill, CA 95037	Jack Dilles
330 West 20th Avenue, San Mateo, CA 94403	Shawn Mason
110 East Main St., Los Gatos, CA	Orry Korb
1198 El Camino Real, Colma, CA 94010	Laura Allen

Summary Minutes

1. Call To Order

2. Public Comments

3. Approval of Minutes Special Meeting November 2, 2007

Minutes of the meeting of November 2, 2007 approved as presented.
/M/Steele/S/Quick/C/ roll call approved

Item 4. was discussed in closed session pursuant to the requirements of the Ralph M. Brown Act.

4. Conference with Legal Counsel – anticipated or existing litigation

- City of Half Moon Bay – Coverage for Yamagiwa v. Half Moon Bay*

5. Open session – Announcements

Julie Carter announced that no reportable action was taken in closed session.

6. Resolving Coverage Questions – Inverse Condemnation

Ken Moy presented a staff memo outlining issues in resolving coverage questions based on the exclusion for inverse condemnation claims in light of the recent decision in *Pacifica v. ABAG PLAN.* The Claims Committee has made a recommendation for action to the Executive Committee. Orry Korb and Shawn Mason each provided their views as members of the Claims Committee and shared the process they went through to make a recommendation.

On the one hand, any revision to the inverse exclusion alone is likely to be imperfect in assuring a predictable result. On the other hand, revising the Risk Coverage Agreement (RCA) is more difficult and there is some concern that allowing the Board to decide coverage leaves the member at a disadvantage. However, the Claims Policy provides for binding arbitration on appeal from the Board's decision, and that makes it more likely that the result will be favorable for PLAN.

Regardless of whether or not the RCA is amended, there was consensus that there were a number of steps that should be taken first. After further discussion the committee directed staff to revise the MOC to prevent coverage and defense obligations for "inverse" claims and to include a dispute resolution process.

/M/Steele/S/Maltbie/C/ Roll call vote

7. Loss Allocation Formula

Marcus Beverly presented a staff report with a brief history of the events that have taken place since the Executive Committee made a recommendation to adopt a loss sharing formula. Given the issues involved in trying to resolve coverage disputes and the potential consequences of revising the Risk Coverage Agreement, the matter of finalizing this process has become a priority.

There was agreement for maintaining the previous loss sharing formula recommendation but still some concern about its application upon withdrawal, with some members wanting to prevent payment to a withdrawn member who has received more in losses paid than they paid in premiums and interest. The members and staff discussed this point and how we might make progress by passing a loss sharing formula that is separate expression of the policy of the group, even if not used or if used only in certain cases, such as termination.

Staff and the members also discussed the steps necessary to approve a formula and the timing. Staff will streamline and focus the analysis on a few key issues and options, with fewer exhibits and no dollar amounts. Staff will also review the summary exhibit regarding the loss transfer points for the recommended option to confirm if they are all capped at \$250,000 or if for some members it is higher.

The members agreed to continue recommending the previously approved loss allocation formula and provided direction to staff to bring the issue to the Board for approval at their next meeting on June 11, 2008. In addition to the recommended option, Option 8 and at least two others will be presented for consideration. The approved formula would be used in case of termination, with the issues of withdrawal and expulsion to be addressed later, at the Board's October meeting.

8. Other Business

Julie Carter invited the participants to attend Dublin's annual St. Patrick's Day Celebration the weekend prior to the 17th.

9. Adjournment - meeting was adjourned at 3:08 p.m.

Respectfully submitted,



Marcus Beverly
Risk Manager & Secretary